

Remarks

Claims 1-27 and 38-64 are allowed.

Claims 65-73 are rejected under 35 U.S.C. §103(a) as being obvious over Walker et al. (U.S. Patent No. 5,794, 207) in view of Taylor et al. (U.S. Patent No. 5,790,642).

Claims 75-77 are rejected under 35 U.S.C. §103 as being obvious over Walker et al. in view of Taylor et al. and Coyle (U.S. Patent No. 6,269,157).

Claims 1-27, 38-73 and 75-77 remain pending.

Walker et al. discloses a conditional purchase offer (CPO) system that is substantially similar to U.S. Patent No. 6,345,090 (the '090 patent), which was discussed at length in the Response filed on May 6, 2003. Walker et al. teaches a conditional purchase offer (CPO) management system that allows prospective buyers of goods and services to communicate a binding purchase offer (i.e. a CPO) globally to potential sellers. The CPOs are stored in a database, which a potential seller may search and selectively accept (i.e. bind itself) to one or more stored CPOs. The CPO management system includes a seller identification database 260 containing "data on sellers with fields such as name, contact information, public/private key information, payment preferences, type of business, and goods sold." Col. 13, lines 10-13. However, Walker et al. does not disclose or teach the inputting of sell orders (i.e. offers to sell, as opposed to acceptance of a buyer's offer) into the seller database 260 or the CPO management system such that the CPO management system itself, acting as an intermediary, may match the sell orders and purchase orders and broker a transaction of telecommunications service for the buyers and sellers. Rather, the

CPO management merely presents purchase orders to a potential seller who then "selects CPO 100 which he would like to bind, developing seller response 110 which represents his intention to bind." Col. 19, lines 14-16. Therefore, the CPO management system does not receive any sell orders that it can match with stored CPOs; rather, it is the sellers themselves who get to pick and choose the stored CPOs and send a response to "accept" a CPO within the meaning of contract law. Accordingly, Walker et al. does not disclose or teach a network that receives both purchase and sell orders specifying a class of service and a means for matching the sell and purchase orders and brokering a transaction of telecommunications service, on the basis of at least one of the specified class of service, as required by independent claim 65.

Taylor et al. discloses a plurality of service centers, disbursed throughout a telecommunications network such as the public switched telephone system (PSTN), which competitively bid for the rights to service a particular call to be serviced from one of the service centers. "[A service] center 102 may construct a record or other database structure which indicates cost factors impacting the price of servicing a particular call. These factors may include, (i) telephone number to which the information should be faxed; (ii) length of information to be faxed; (iii) time restrictions concerning when the information must be faxed; (iv) any other cost factors or required information deemed relevant by the system user." Col. 4, lines 60-67. The information is termed a "bid request." "Each of the service centers 101-104 includes a costing algorithm, which parses the information in the bid request and determines therefrom the cost for that particular center to complete the call." Col. 5 lines 5-8. Once the cost of the call is determined at each particular service center (i.e. seller), the calculated cost information is transmitted back to the originating service center 102. Col. 5,

lines 12-14. After receiving all of the "bids," the originating service 102 (i.e. the buyer) compares the "bids" and selects the lowest bidding service center to make the call. Col. 5, lines 18-20. Taylor's "bidding" service center is in fact a seller who offers for sale its telecommunication route and submits an "ask" or sell offer to the originating/buying service center. This transaction is typical of a bilateral transaction between a buyer and a seller and does not involve an intermediary (i.e. a broker) to facilitate the transaction. The originating service center 102 cannot be fairly characterized as a broker since it generates its own buy offer and buys service from other service centers for its own use. Accordingly, Taylor et al. does not disclose or teach a means for matching the sell and purchase orders and brokering a transaction of telecommunications service, on the basis of at least one of the specified class of service, as required by independent claim 65. See definition of "broker" in the Merriam-Webster's Collegiate Dictionary, Tenth Edition, which is attached hereto.

Furthermore, absent any teachings from the cited references for combining the two vastly different purchase/sale systems: Taylor's conventional bidding system, which requires a buying service center to send out requests for bids from selling service centers; and Walker's unconventional CPO system, which must first collect conditional purchase offers from buyers so that potential sellers may selectively accept such offers, it is respectfully submitted that the Examiner's proffered combination of the cited references constitute improper hindsight reconstruction of the present invention.

In conclusion, neither the Walker et al. nor Taylor et al., singly or in combination, discloses or teaches all of the limitations of independent claim 65. The rejection of claim 65 should be withdrawn.

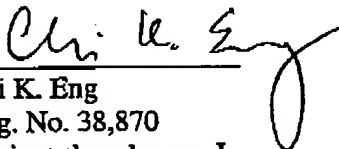
For the same aforementioned reasons, claims 66-73 and 75-77 depending from claim 65 also overcome the cited references. Withdrawal of the section 103 rejection is requested.

It is respectfully submitted that all of the pending claims of the present application are in condition for allowance in light of the above remarks and Applicant's submissions. Such action is requested.

Respectfully submitted,

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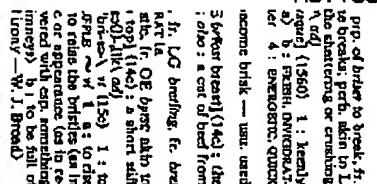
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